

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTON

INCOME TAX REFERENCE NO.235 OF 1988

Commissioner of Income-tax,
Bombay City-II, Bombay .. Applicant.

Versus

Dow Chemicals Co. .. Respondent.

Mr.Ashok Kotangale for the applicant.

None for the respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 1ST AUGUST, 2007.

P.C. :

1. At the instance of the Commissioner of Income-tax City-II, Bombay the Income Tax Appellate Tribunal has forwarded the following question of law for the opinion of this Court under Section 256(1) of the Income Tax Act, 1961.

Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the capital gains should be computed by taking both the cash price and the sale price in dollars and then converting the profits into rupees, on the date of the sale ?

2. The Respondent/assessee is a non resident Company and the assessment year involved herein is A.Y.1977-78.

3. In the present case, the Tribunal following its decision in the case of E.R. Squibb & Sons Inc. held that the Capital gains arising on sale of shares of IDL Limited to a non resident Company should be computed by taking both the cost price and sale price in dollars and then converting the profits into rupees on the date of sale. The aforesaid decision of the Tribunal has been reversed by this Court in the case of C.I.T. V/s. E.R. Squibb & Sons Inc. reported in 135 ITR 1. In that case, it is held that where the sale proceeds are received in Indian Currency and remitted in foreign currency, the Capital gains has to be computed in Indian currency.

4. In this view of the matter, the question referred to us is answered in negative i.e. in favour of the Revenue and against the assessee.

5. The reference is disposed of in the above terms with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)